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MAR 02 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Seggem	Docket No:	5410-006 (312552-24)
Serial No.:	10/808,758	Confirmation No.:	6593
Filed:	March 24, 2004	Group Art Unit:	1648
For:	ADENOVIRUS PARTICLES WITH ENHANCED INFECTIVITY OF DENDRITIC CELLS AND PARTICLES WITH DECREASED INFECTIVITY OF HEPATOCYTES	Examiner:	<i>To be assigned</i>

**RENEWED PETITION UNDER 37 CFR 1.137(b)**

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby Petition to Revive this abandoned application under 37 C.F.R. 1.137(b) (unintentional delay) and state as follows:

A grantable petition to revive under 37 C.F.R. 1.137(b) has three requirements and Applicants have complied with all three requirements. The three requirements are:

1. The required reply unless previously filed.

The required reply is a response to the Notice to File Missing Parts mailed September 16, 2005. Applicants filed an executed declaration on June 22, 2006. On March 24, 2004 applicant's filed a Computer Readable Form of the sequence listing, along with a paper copy of

the same. Filed herewith is a preliminary amendment for its entry into the application; and a Statement Under 37 CFR § 1.821-1.825.

2. The petition fee required by 37 CFR 1.17(m).

The petition fee for a small entity was paid on June 22, 2006.

3. A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. The delay was due to internal communication error when the file for this case was transferred from Fish & Richardson to DLA Piper U.S. LLP. The patent application file and responsibility for prosecution was transferred from Fish & Richardson to DLA Piper's San Francisco office on August 23, 2005. The application was filed on March 24, 2004 and was entered into the docket system at DLA as a pending application with no response due to the USPTO. The Filing receipt and Notice to File Missing Parts (dated September 16, 2005) was forwarded by Fish & Richardson to DLA Piper's San Francisco office on October 20, 2005, however the due date was inadvertently not docketed at DLA. A Revocation and Power of Attorney transferring responsibility to DLA was filed on November 14, 2005. Accordingly, the application was believed to be in good standing until the Notice of Abandonment dated 5/22/06 and mailed to Fish & Richardson was received and docketed by DLA Piper's San Francisco office on June 20, 2006.

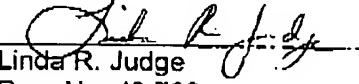
Wherefore, Applicants respectfully request that the Petition to Revive be granted, and the present application be revived and reinstated.

If any issues remain which the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact Applicants' counsel, Linda R. Judge at (415) 836-2586.

Respectfully submitted,

Date: 3/2/07

**Customer No. 29585**  
DLA Piper US LLP  
Telephone: 415/836.2500  
Facsimile: 415/836.2501

  
Linda R. Judge  
Reg. No. 42,702

SANP1363551.1

Page 3 of 3



# BEST AVAILABLE COPY

DLA Piper US LLP  
153 Townsend Street, Suite 800  
San Francisco, California 94107-1957  
www.dlapiper.com

Linda R. Judge  
linda.judge@dlapiper.com  
T 415.836.2586

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## FAX TRANSMISSION COVER SHEET

Date: March 2, 2007

<u>To</u>	<u>Telephone</u>	<u>Fax Number</u>
Attn: Group Art Unit 1648 United States Patent and Trademark Office		571/273.8300
From: Linda R. Judge 415/836.2586		Client-Matter Number: 312552-24
Re: U.S. Application No.: 10/808,758		
Entitled:	ADENOVIRUS PARTICLES WITH ENHANCED INFECTIVITY OF DENDRITIC CELLS AND PARTICLES WITH DECREASED INFECTIVITY OF HEPATOCYTES	
Filing Date:	March 24, 2004	
Inventor:	Segger	
Art Unit:	1648	
Examiner:	To be assigned	
Attorney Docket No.:	5410-006 (312552-24)	
Pages: -12- (including this form)	Originals: will not follow	

If there is a problem with this transmission, please call DLA Piper Office Services at 415.836.2500, ext. 6104

### Message:

Please find the following papers included in this filing:

1. Transmittal;
2. Copy of Decision of Petition;
3. Renewed Petition Under 37 CFR 1.137(b);
4. Preliminary Amendment;
5. Statement Under 37 CFR § 1.821-1.825; and
6. Combined Revocation and Power of Attorney and Statement Under 37 CFR §§ .73(b) & 3.71 and Request for Change of Attorney Docket Number.

Thank you.

### CONFIDENTIALITY NOTICE

This communication is ONLY for the person named above. Unless otherwise indicated, it contains information that is confidential, privileged or exempt from disclosure under applicable law. If you are not the person named above, or responsible for delivering it to that person, be aware that disclosure, copying, distribution or use of this communication is strictly PROHIBITED. If you have received it in error, or are uncertain as to its proper handling, please immediately notify us by collect telephone and mail the original to us at the above address. Thank you

SANF1365814.1

PAGE 1/12 \* RCVD AT 3/2/2007 4:16:54 PM [Eastern Standard Time] \* SVR:USPTO-EFXRF-3/11 \* DNI:2738300 \* CSID:415 836 2501 \* DURATION (mm:ss):05-06

# TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Total Number of Pages in this Submission: **11**

Application No.	10/808 758
Filing Date	March 24, 2004
First Named Inventor	Von Seggern
Group Art Unit	1648
Examiner Name	To be assigned

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Attorney Docket No. **5410-006 (312552-24)**

## ENCLOSURES (check all that apply)

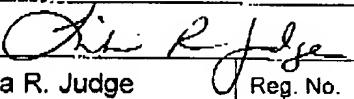
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After-Allowance Communication to TC
<input type="checkbox"/> Fee attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Preliminary Amendment	<input checked="" type="checkbox"/> Renewed Petition Under 37 CFR 1.137(b)	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavit/Declaration(s)	<input checked="" type="checkbox"/> Combined Revocation and Power of Attorney and Statements Under §§ 37 C.F.R. 3.73(b) and 3.71 and Request for Change of Attorney Docket Number (executed)	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Copy of Decision on Petition mailed <u>January 19, 2007</u>	<input checked="" type="checkbox"/> Statement Under 37 CFR § 1.821-1.825	<input type="checkbox"/> Additional Enclosure(s):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> <input type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Supplemental Information Disclosure Statement (IDS)	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Substitute PTO Form 1449	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Cited References	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Response to Missing Parts Notice/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

## REMARKS:

Please address all correspondence to Customer Number 29585

The Director is hereby authorized to charge any fees that may be required in connection with the papers submitted herewith that have been inadvertently omitted, specifically including any extension fees that may be required under 37 CFR § 1.136(a), to Deposit Account No. 07-1896 (Charge No. 5410-006 (312552-24))

## SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Signature		Date	3/2/07
Name	Linda R. Judge	Reg. No.	42,702
Address	153 Townsend St., Suite 800, San Francisco, CA 94107		
	Telephone	415/836.2586	
	Facsimile	415/836.2501	

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any referred to as being attached) is being filed with the United States Patent and Trademark Office by facsimile transmission on the date indicated below to facsimile No. 571/273.8300.

Date: March 2, 2007

CARISSA HEMPHILL  
Name

SANF1\365799.1



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
 United States Patent and Trademark Office  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

STEPHANIE SEIDMAN  
 FISH & RICHARDSON PC  
 12390 EL CAMINO REAL  
 SAN DIEGO, CA 92130-2081

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JAN 19 2007

**OFFICE OF PETITIONS**

In re Application of :  
 Daniel J. Von Seggern :  
 Application No. 10/808,758 : ON PETITION  
 Filed: March 24, 2004 :  
 Attorney Docket No. 22908-1239 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 16, 2005, which requires the submission of an executed oath or declaration, a \$65 surcharge fee for its late filing, and compliance with the sequence listing requirements. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 17, 2005. A Notice of Abandonment was mailed on May 22, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously received

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JAN 22 2007

DLA PIPER, LUCNICK  
 GRAY CARY

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 DD - 19 March 01

Application No. 10/808,758

Page 2

filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C). The instant petition lacks items (1) and (3) above.

With respect to item (1), compliance with the sequence requirements set out in the Notice of September 16, 2005 has not been satisfied. Accordingly, before revival can be effected, the sequence requirement must be satisfied.

As to item (3) above, the petition presently does not provide an adequate statement of unintentional delay. More particularly, the sentence "[t]he delay was due to internal communication error when the file for this case was transferred from Fish & Richardson to DLA Piper Rudnick Gray Cary U.S. LLP," needs further clarification. What was the nature of the communication error which led to the unintentional abandonment of this application?

In sum, the renewed petition under 37 CFR 1.137(b) must be accompanied by a complete reply to the Notice of September 16, 2005 and an explanation of the nature of the miscommunication error which resulted in the unintentional abandonment of this application.

The revocation and power of attorney filed on November 14, 2005 is unacceptable since it fails to comply with the provisions of 37 CFR 3.73(b). In this regard, the reel and frame number where the recorded assignment appears in the Office assignment records is missing. A courtesy copy of this decision is being mailed to petitioner. However, until such time as an acceptable power of attorney is received, all future correspondence regarding this file will continue to be held with the above address of record.

Application No. 10/808,758

Page 3

Future correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

*Frances Hicks*  
Frances Hicks  
Petitions Examiner  
Office of Petitions

cc:

Patent Group  
DLA Piper Rudnick Gray Cary US LLP  
1200 Nineteenth Street NW  
Washington, DC 20036-2412

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Seggern	Docket No:	5410-006 (312552-24)
Serial No.:	10/808,758	Confirmation No.:	6593
Filed:	March 24, 2004	Group Art Unit:	1648
For:	ADENOVIRUS PARTICLES WITH ENHANCED INFECTIVITY OF DENDRITIC CELLS AND PARTICLES WITH DECREASED INFECTIVITY OF HEPATOCYTES	Examiner:	To be assigned

## PRELIMINARY AMENDMENT

**Mail Stop Petition**  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

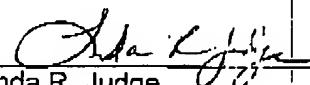
Sir:

Please insert the Sequence Listing submitted on March 24, 2004 after the last page of the specification.

Applicants believe that the present application is now in condition for allowance.  
 Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date: 3/2/07
  
 Linda R. Judge  
 Reg. No. 42,702

**Customer No. 29585**  
 DLA Piper US LLP  
 Telephone: 415/836.2586  
 Facsimile: 415/836.2501

Serial No. 10/808,758

Page 1 of 1

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## THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Seggem	Docket No:	5410-006 (312552-24)
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## STATEMENT UNDER 37 C.F.R. §1.821-1.825

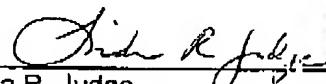
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, Linda R. Judge, declare as follows:

1. That the contents of the paper and computer readable copies of the Sequence Listing submitted on March 24, 2004 in accordance with 37 CFR 1.821(c) and (e), respectively, are the same in compliance with 1.821(f).
2. That the submission filed on March 24, 2004, filed in accordance with 37 CFR 1.821(g), does not include new matter.

Respectfully submitted,

Dated: 3/2/07

  
Linda R. Judge  
Registration No. 42,702

Customer Number 29585

DLA Piper US LLP

Telephone No.: (415) 836-2500

Facsimile No.: (415) 836-2501

10/808,758  
SANF1363533.1

Page 1 of 1

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**MAR 02 2007**

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Von Seggern  
Serial No.: 10/808,758  
Filed: March 24, 2004  
For: ADENOVIRUS PARTICLES WITH  
ENHANCED INFECTIVITY OF  
DENDRITIC CELLS AND PARTICLES  
WITH DECREASED INFECTIVITY OF  
HEPATOCYTES

Docket No: 5410-006 (312552-24)  
Confirmation No.: 8593  
Group Art Unit: 1648  
Examiner: To be assigned

**COMBINED REVOCATION AND POWER OF ATTORNEY AND STATEMENTS  
UNDER 37 CFR §§ 3.73(B) & 3.71 AND REQUEST FOR CHANGE OF  
ATTORNEY DOCKET NUMBER**

The Scripps Research Institute, a public benefit not for profit organization, states that it is:

1.  the assignee of the entire right, title and interest; or
2.  an assignee of \_\_\_\_\_ % of the entire right, title and interest

in the above-captioned patent application by virtue of either:

A.  an assignment from the inventor(s) of the above-captioned application  recorded in the United States Patent and Trademark Office at Reel 015104, Frame 0532, or  for which a true copy thereof is attached hereto; or

B.  a chain of title from the inventor(s) of the above-captioned application to \_\_\_\_\_ Inc. as shown below:

1. From the inventor(s) to \_\_\_\_\_ Inc., recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or  for which a true copy thereof is attached hereto; and

2. From \_\_\_\_\_ Inc. to \_\_\_\_\_ Inc., recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or  for which a true copy thereof is attached hereto; and

3. From \_\_\_\_\_ Inc. to \_\_\_\_\_ Inc., recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or  for which a true copy thereof is attached hereto.

Serial No. 10/808,758

Page 1 of 2

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The Scripps Research Institute hereby revokes all previous powers of attorney and hereby appoints Linda R. Judge, Registration No. 42,702, and the DLA Piper US LLP attorneys and agents associated with Customer Number 29585 as its attorneys with full power of substitution and revocation, to prosecute the above-captioned application and to transact all business in the Patent and Trademark Office connected therewith connected therewith, including full power of association, substitution, and revocation, said appointment being to the exclusion of the inventor(s) and his/her attorney(s) in accordance with the provisions of 37 CFR § 3.71; provided that if any one of said attorneys ceases to be affiliated with the law firm of DLA Piper US LLP as partner, employee or of counsel, such attorney's appointment as attorney and all powers derived therefrom shall terminate on the date such attorney ceases being so affiliated.

Please direct all correspondence in the captioned application to:

Customer No. 29585  
DLA Piper US LLP  
153 Townsend Street, Suite 800  
San Francisco, CA 94107  
Tel: (415) 836-2500  
Fax: (415) 836-2501

The attorney docket number for this application was formerly entered as 22908-1239. It has since been changed to docket number 5410-006. Please use this new docket number in reference to this application for all future communications.

The undersigned, whose title is supplied below, is authorized to act on behalf of the assignee.

Date: February 20, 2007

Assignee: The Scripps Research Institute  
Signed: Thomas Fitting  
Print Name: Thomas Fitting, Esq., Ph.D.  
Print Title: Chief Patent Counsel